



# INDUSTRY CIRCULAR

## DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms  
Washington, D. C. 20226

Number: 87-7

Date: 9/22/87

THE PENULTIMATE PARAGRAPH DOES NOT APPLY TO WINE TRANSACTIONS

Proprietors of Bonded Wineries, Bonded Wine Cellars, Breweries, Importers and Wholesalers of Distilled Spirits, Wine and Malt Beverages, and others concerned:

Purpose. This circular is issued to alert those industry members that formerly dealt in beer only and are expanding to wine, that 27 U.S.C. §§ 205(a) through 205(d), Unfair Competition and Unlawful Practices, are applicable to all transactions involving wine without regard to State law. Inasmuch as the scope of the penultimate paragraph of 27 U.S.C. § 205 is limited to malt beverage transactions only, transactions involving wine are not affected.

Background. With the increase in the number of brewers and wholesale dealers in beer expanding into the wine business, we have received numerous inquiries regarding the applicability of the FAA Act, specifically the "Tied House" provisions, to such transactions. There is a general lack of awareness on the part of such industry members, especially those doing business in states which possess less stringent laws, that compliance with State law does not automatically place them in compliance with the FAA Act, as was the case when they dealt in beer only.

In general, industry members are prohibited from using certain specified means to require or induce the purchases of trade buyers assuming the other requisite elements of the statute are present. In particular, the furnishing, giving, renting, lending, or selling of equipment and the providing of services by industry members to retailers, are proscribed means to induce within the scope of 27 U.S.C. § 205 (b), unless specifically excepted by regulation. The penultimate paragraph of 27 U.S.C. § 205 restricts such trade practices for malt beverage transactions only insofar as the State in which the transaction occurs has enacted a similar State law which also prohibits such activity. However, for transactions involving wine, all of the proscriptions set forth in 27 U.S.C. §§ 205(a) thru 205(d) are applicable, regardless of State law.

Subpart D of 27 CFR Part 6, identifies all of the exceptions referenced in the preceding paragraph. Of particular significance to dealers of wine in keg type containers, is 27 CFR § 6.89, which permits the sale of "tapping accessories" to retailers under prescribed conditions.

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Industry members should note that "wine cooler" products are subject to the trade practice provisions of the FAA Act only if they contain at least seven (7) percent alcohol by volume.

Inquiries. Inquiries concerning this circular should refer to the circular number and be addressed to the Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW, Washington, DC 20226, ATTN: Tax and Trade Compliance Branch.

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